IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 7078 of 2006

DATED: 13-4-2006

Between:

Syed Yousuf petitioner

And

The Regional manager, APSRTC

Nalgonda Region, Nalgonda district and two others Respondents

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THE HON'BLE SRI JUSTICE N.V.RAMANA

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WRIT PETITION NO.7078 of 2006

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ORAL ORDER:

This writ petition is filed seeking Writ of *Mandamus* declaring the action of the

respondents in passing the impugned order dated 4.3.1991 imposing punishment of deferment of annual increment for a period of three months with cumulative effect.

The petitioner herein was appointed as driver in the respondent corporation on 28.10.1978. While so, a charge sheet dated 20.9.1990 was issued to the petitioner alleging unauthorized absence from duty. The petitioner submitted his explanation, however, without considering the same, and without conducting any enquiry, the 3rd respondent passed the impugned order imposing the major punishment of deferment of annual increments for a period of three months. The appeal preferred by the petitioner, is stated to have been rejected. Hence, the present writ petition questioning the action of the respondents in imposing the major punishment without conducting a departmental enquiry.

Learned counsel for petitioner contends that punishment of deferment of increments for a period of three months with cumulative effect is a major penalty and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC & A) Regulations. In support of his contention, he placed reliance on judgment of the Supreme Court in ***KUSWANTH SINGH GILL Vs. STATE OF PUNJAB***. Learned counsel for petitioner also relied on a judgment of this Court in W.P. No. 20609 of 1999 dated 7.12.2005 which is in a similar background of facts and circumstances.

Heard the learned counsel for petitioner and learned Standing Counsel for respondent Corporation. Both counsel submitted that the matter is squarely covered by orders of this Court in W.P. No. 20609 of 1999.

It is an admitted fact that the 3rd respondent imposed punishment of deferment of annual increment for a period of three months with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court in ***KUSWANTH SINGH GILL'S CASE*** (cited supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment was imposed without conducting regular departmental enquiry violating the judgment of Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to 3rd respondent to pass fresh orders.

But to avoid further litigation in the matter, having regard to the nature of punishment, both the counsel agreed that instead of remitting the matter to the 3rd respondent for passing fresh orders, prayed that the impugned order be treated as one imposing stoppage of one annual increment for a period of three months without cumulative effect.

In view of the admitted stand taken by the learned counsel for the respective parties, the impugned order dated 17-12-1992 passed by the 3rd respondent imposing the punishment of stoppage of annual increment with cumulative effect, is modified to that of stoppage of one increment for a period of three months without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE: 13.4.2006

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THE HON'BLE MR JUSTICE N.V. RAMANA

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